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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,371	09/30/2003	Robert Beckstrom	6065/88622	5983
24628	7590	02/28/2007		
WELSH & KATZ, LTD 120 S RIVERSIDE PLAZA 22ND FLOOR CHICAGO, IL 60606			EXAMINER DAYE, CHELCIE L	
			ART UNIT	PAPER NUMBER
			2161	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/28/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/675,371

Applicant(s)

BECKSTROM ET AL.

Examiner

Chelcie Daye

Art Unit

2161

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 2161

### **DETAILED ACTION**

1. This action is issued in response to applicant's amendment filed January 16, 2007.
2. Claims 1-20 are presented. No claims added and none cancelled.
3. Claims 1-20 are pending.
4. Applicant's arguments filed January 16, 2007, have been fully considered but they are not persuasive.

### ***Continued Examination Under 37 CFR 1.114***

5. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 16, 2007 has been entered.

### ***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 1, 11, and 20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to

Art Unit: 2161

one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Specifically, newly amended claims 1, 11, and 20 recite, "monitoring a non-voice data session", however, the specification does not provide adequate support for the monitored data session to be non-voice. It is unclear to the examiner what the applicant interprets as being a "non-voice" data session and where within the specification such interpretation is supported. As such, in order to further prosecution, examiner will give the broadest reasonable interpretation for the particular limitation. Further corrections are needed.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fedorov (US Patent No. 6,047,060) filed on February 20, 1998, in view of Miloslavsky (US Patent No. 6,021,428) filed January 22, 1998, and further in view of Shaffer (US Patent No. 6,363,145) filed on August 17, 1998.**

Regarding Claims 1 and 11, Fedorov discloses a method for improving transactions in a communication system, comprising:

monitoring a non-voice data session (column 5, lines 26-29, Fedorov) between at least one of first and second parties (column 7, lines 56-59, Fedorov)<sup>1</sup> in a transaction in the communication system (column 10, lines 48-55, Fedorov). However, Federov is silent with respect to the data session being a non-voice data session. On the other hand, Miloslavsky discloses a non-voice data session (column 36, lines 21-36, Miloslavsky)<sup>2</sup>. Federov and Miloslavsky are analogous art because they are from the same field of endeavor of a telephone call-in-center. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Miloslavsky's teachings into the Federov system. A skilled artisan would have been motivated to combine as suggested by Miloslavsky at columns 1-2, lines 58-67 and 1-2, respectively, in order to introduce the Internet together with advances in computer hardware and software to lead to a new multi-media telephone system, known as Internet protocol network telephony (IPNT). As a result, the use of the IPNT allows for the improved handling of more calls faster and the improvement of other services in every way. Therefore, the combination of Federov in view of Miloslavsky, disclose engaging a third party into the transaction (column 7, lines 47-50, Fedorov) in response to the monitoring of the non-voice data session between the first and second parties (column 7, lines 56-59, Fedorov). However, the combination of Federov in view of Miloslavsky, are silent with respect to the monitoring and engaging being done automatically. On the other hand, Shaffer discloses the automatically monitoring (column 4, lines 17-27, Shaffer) and

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<sup>1</sup> Examiner Notes: The agent and the customer represent the first and second parties.

Art Unit: 2161

automatically engaging (column 5, lines 58-65, Shaffer). Fedorov, Miloslavsky, and Shaffer are analogous art because they are from the same field of endeavor of automatic call distributors. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Shaffer's teachings into the Fedorov in view of Miloslavsky system. A skilled artisan would have been motivated to combine in as suggested by Shaffer at column 2, lines 18-23, in order to provide automated ACD call monitoring. As a result, enabling a supervisor to utilize information generated by the monitoring during the pendency of the call and providing a more complete description of agent performance. As well as allowing a superior official join if needed.

Regarding Claims 2 and 12, the combination of Fedorov in view of Miloslavsky, and further in view of Shaffer, disclose the method wherein the third is at least one of a virtual party and an automated input (column 5, lines 37-50, Shaffer).

Regarding Claim 3, the combination of Fedorov in view of Miloslavsky, and further in view of Shaffer, disclose the method wherein the third party is engaged to review data messages before the data messages are sent (column 8, lines 8-20, Fedorov).

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<sup>2</sup> Examiner Notes: The e-mails represent an example of a non-voice data session.

Art Unit: 2161

Regarding Claims 4 and 14 the combination of Fedorov in view of Miloslavsky, and further in view of Shaffer, disclose the method wherein the third party engages in a background of the data session of at least one of the first and second parties (column 7, lines 50-54, Fedorov)<sup>3</sup>.

Regarding Claims 5 and 15, the combination of Fedorov in view of Miloslavsky, and further in view of Shaffer, disclose the method wherein the third party engages in a foreground of the data session (column 8, line 29, Fedorov) to reduce stress levels of at least one of the first and second parties (columns 7-8, lines 66-67 and 1-5, respectively, Shaffer).

Regarding Claims 6 and 16, the combination of Fedorov in view of Miloslavsky, and further in view of Shaffer, disclose the method wherein the third party communicates only with one of the first and second parties (column 8, lines 27-35, Fedorov)<sup>4</sup>.

Regarding Claims 7 and 17, the combination of Fedorov in view of Miloslavsky, and further in view of Shaffer, disclose the method wherein the third party communicates with both of the first and second parties (column 8, lines 27-35, Fedorov)<sup>5</sup>.

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<sup>3</sup> Examiner Notes: Since the supervisor is talking to the agent and not both, the supervisor is participating in the background of the call.

<sup>4</sup> Examiner Notes: "To communicate with the agent transparent to the caller" corresponds to only communicating with one of the parties (i.e. the agent).

<sup>5</sup> Examiner Notes: "To participate in the calls" corresponds to communicate with both parties.

Regarding Claims 8 and 18, the combination of Fedorov in view of Miloslavsky, and further in view of Shaffer, disclose the method wherein the monitoring of the data session between the first and second parties is conducted in real-time (column 7, lines 50-54, Fedorov).

Regarding Claims 9 and 19, the combination of Fedorov in view of Miloslavsky, and further in view of Shaffer, disclose the method wherein the monitoring of the data session is conducted by at least one of; analyzing a respective voice signal of at least one of the first and second parties (column 4, lines 34-39, Shaffer), converting a respective voice signal of at least one of the first and second parties to text and analyzing the text (column 9, lines 35-39, Fedorov), and analyzing a physical stress level of at least one of the first and second parties (column 6, lines 48-52, Shaffer).

Regarding Claim 10, the combination of Fedorov in view of Miloslavsky, and further in view of Shaffer, disclose the method wherein the dynamic monitoring comprises inspection of contents of data messages (column 10, lines 31-34, Fedorov)<sup>6</sup> and wherein detection of problematic phrases engages the third party (column 5, lines 29-36, Shaffer).

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<sup>6</sup> Examiner Notes: "Reviewing" corresponds to inspecting.



Art Unit: 2161

Regarding Claim 13, the combination of Fedorov in view of Miloslavsky, and further in view of Shaffer, disclose the apparatus wherein one of the parties in the transaction is a customer, wherein the monitoring comprises automatically detecting an indication by the customer that they desire to deal with a supervisor and wherein the means for automatically engaging engages the supervisor in response thereto (column 4, lines 44-63 and column 5, lines 29-65, Shaffer).

Regarding Claim 20, the combination of Fedorov in view of Miloslavsky, and further in view of Shaffer, disclose a system for improving transactions in a communication system comprising:

- a computerized transaction handling system, which handles non-voice data sessions (column 36, lines 21-36, Miloslavsky) between at least one of first and second parties (column 7, lines 56-59, Fedorov) in a transaction in the communication system (column 10, lines 48-55, Fedorov);

- a computerized sub-system associated with the transaction handling system, which automatically monitors at least some of the non-voice data sessions (column 4, lines 17-27, Shaffer); and

- a computerized sub-system associated with the transaction handling system which automatically engages (column 5, lines 58-65, Shaffer) a third party into the transaction (column 7, lines 47-50, Fedorov) in response to detection in real-time of at least one target parameter by the automatic monitoring (column 7, lines 50-54, Fedorov).

***Response to Arguments***

Applicant's arguments with respect to newly amended claims 1, 11, and 20, and in particular the amended limitations of "a non-voice data session" and "automatically engaging a third party", have been considered but are moot in view of the new ground(s) of rejection.

*Applicant argues, Federov does not disclose the step of "automatic monitoring".*

Examiner respectfully disagrees. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). As stated in the previous office action, the combination of Federov in view of Shaffer, were used to disclose the particular feature of automatic monitoring. In particular, Shaffer was relied upon at column 4, lines 17-27; wherein "the capability to automatically monitor ACD calls for voice data patterns associations enables a supervisor to efficiently monitor a large number of agents". As such, examiner believes the above argued limitation to be fully disclosed.

Art Unit: 2161

***Points of Contact***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chelcie Daye whose telephone number is 571-272-3891. The examiner can normally be reached on M-F, 7:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Apu Mofiz can be reached on 571-272-4080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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February 20, 2007

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